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WASHINGTON, D.C. 20544

November 26, 2004

MEMORANDUM TO: **UNITED STATES JUDGES**
 CIRCUIT EXECUTIVES
 FEDERAL PUBLIC/COMMUNITY DEFENDERS
 DISTRICT COURT EXECUTIVES
 CLERKS, UNITED STATES COURTS
 CHIEF PROBATION OFFICERS
 CHIEF PRETRIAL SERVICES OFFICERS
 SENIOR STAFF ATTORNEYS
 CHIEF PREARGUMENT/CONFERENCE ATTORNEYS
 BANKRUPTCY ADMINISTRATORS
 CIRCUIT LIBRARIANS

SUBJECT: *Amendments to the Rules of Practice and Procedure (INFORMATION)*

Congress has taken no action on the amendments to the Federal Rules of Bankruptcy and Criminal Procedure approved by the Supreme Court on April 26, 2004. Accordingly, the following amendments to the rules and forms will take effect on December 1, 2004:

- Bankruptcy Rules 1011, 2002, and 9014;
- Criminal Rule 35,
- Rules Governing § 2254 Cases in the United States District Courts,
- Rules Governing § 2255 Cases in the United States District Courts, and
- Forms accompanying the § 2254 and § 2255 Rules.

The forms accompanying the Rules Governing § 2254 and § 2255 Cases have been comprehensively revised and modernized. The revisions conform to the Antiterrorism and Effective Death Penalty Act of 1996, apply best practices of the courts, and simplify the forms. The Committee on Rules of Practice and Procedure encourages courts to adopt the revised illustrative forms to promote uniform standards governing these proceedings. The Committee recommends that courts consider the practice of the United States District Court for the Eastern District of Virginia, which has adopted the revised forms and will require, effective December 1, 2004, that the forms be used in all § 2254 and § 2255 cases filed with the court. To implement the court's decision, the Virginia Department of Corrections has agreed to make the revised § 2254 form available to all inmates.

Also, on September 30, 2004, the President signed the “Justice for All Act of 2004” (Pub. L. 108-405). Under section 102 of the Act, a crime victim is afforded certain rights, including the right “to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.” The provision sets forth rights broader than rights provided crime victims under a proposed amendment to Criminal Rule 32, which had been approved by the Judicial Conference in September 2004. To avoid confusion and possible supersession problems, the Executive Committee of the Judicial Conference — on recommendation from the Committee on Rules of Practice and Procedure — withdrew the proposed amendment to Criminal Rule 32.

The amendments to the federal rules were mailed to you in May 2004 as part of House Documents 108-181 and 108-182. In accordance with 28 U.S.C. § 2074(a) and the April 26, 2004, orders of the Supreme Court, the pertinent amendments will govern all proceedings commenced on or after December 1, 2004, and “insofar as just and practicable” all proceedings then pending. The text of the amended rules can be found on the Judiciary’s Federal Rulemaking web site at <www.uscourts.gov/rules> . In addition, pamphlets containing the rules, as amended, will be sent to you as soon as they become available from the Government Printing Office.

If you have any questions concerning the status of these amendments, please call Peter G. McCabe, Assistant Director, Office of Judges Programs at (202) 502-1800, or John K. Rabiej, Chief, Rules Committee Support Office at (202) 502-1820.

A handwritten signature in black ink, appearing to read "Leonidas Ralph Mecham". The signature is fluid and cursive, with the first name "Leonidas" being more prominent and the last name "Mecham" following in a similar style.

Leonidas Ralph Mecham